

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Art Unit 2609
ZE'EV DRORI) Examiner: Weldon, U.
Serial No. 08/334,843)
Filed: November 4, 1994)
For: ELECTRONICALLY PROGRAMMABLE)
REMOTE CONTROL ACCESS SYSTEM)
_____)

FIFTH DECLARATION OF ZE'EV DRORI

I, Ze'ev Drori, hereby state the following:

1. I am the inventor of the invention of the subject patent application, which has been assigned to Clifford Electronics, Inc. ("Clifford"). This declaration is further to my declarations previously filed December 12, 1994, June 1, 1995, October 23, 1995 and February 29, 1996. I make this declaration in response to the office action mailed March 12, 1996.

2. The Examiner has stated that my prior declarations do not establish how long Clifford has used my invention in all its remote control vehicle security systems. The attached evidence in **exhibit 1** clearly shows that Clifford diligently incorporated the invention of the subject patent application **in all** newly designed remote control security systems introduced to the market after my invention. For the Examiner's convenience we have highlighted both month and year of publications as well as the marketing feature listing of the invention. It should be noted that though Clifford is a leading manufacturer of vehicle security systems sold in the aftermarket it still is a relatively small company that could not simultaneously design and ready for commercial production the many models required to address the wide array of system features and prices. Needless to say it would have been, of course, commercially impractical for Clifford to have withdrawn certain models from the market before replacement product, which included my inventions were ready for distribution. As new models enter the market they replaced the equivalent model sold to that point. Exhibit 1 also unmistakably prove that the number of remote control auto security models incorporating my invention was constantly increasing until we have completed the process in 1991 and ever since all of Clifford's models sold incorporate my invention.

3. The Examiner has also questioned the prior declarations as to what is meant by "conventional systems" outdated by my invention. These conventional systems generally include the remote control vehicle security systems of the type in which the transmitter and the receiver were matched at the factory to a particular code, thus they were permanently paired. The loss of the transmitter required the owner to either send the control unit to the factory or order from the factory another remote control with the same code. But this was possible only if the factory kept a record of the code. Alternatively if the owner had another remote control the dealer could order a "blank" transmitter from the factory and code it to match the surviving transmitter's code by either cutting or connecting conductive traces on the transmitter's PC board. This procedure is, of course labor intensive, time consuming, costly, mistakes prone, inflexible and at the end offered inadequate security. Because of these limitations the number of possible codes residing in the transmitter was limited to typically less than 100,000 possible codes. These conventional systems are described in applicant's specification at page 6, line 1 to page 7, line 19.

4. In response to the Examiner's question as to how the installer obtains the security system from the manufacturer. Clifford markets its vehicle security systems through independent retail dealers, who in turn sell and install the products to the end user. Principally Clifford's security systems are intended for professional installation, which is performed by technicians employed by the retail dealers. Typically, the retail customer purchases a Clifford remote control security system from a retail dealer, whose technician also installs the system in the customer's vehicle. Clifford provides toll free technical support and on site installation training to dealer technicians.

5. Another question raised by the Examiner is whether Clifford used special incentives to installers/dealers to increase sale of the product embodying the invention and did not use similar incentives to promote the sale of its product which did not include the invention. The answer is emphatically **no**.

If anything through the late eighties and early nineties in order to purge outdated product from inventory Clifford from time to time (typically only once a year) had promoted a clearance sale of old and discontinued remote control security systems of which many did not include the invention. From the foregoing it's amply clear that the outstanding commercial success of my invention is not due to special incentives offered by Clifford.

6. In my earlier declaration I pointed out that several vehicle manufacturers are selling new vehicles equipped with remote control security systems incorporating my invention. The Examiner has stated that I did not establish when such vehicle manufacturers started using such systems or how sales of the car companies cars with such systems similar to my invention correlate to the "year by year" sales increase of the Clifford systems using the invention. Obviously I do not have access to the vehicle manufacturer's records so specific sales information

cannot be provided but I know of no one who can show that any car maker sold a system incorporating my invention before the 1990 models. What's more I do have clear and convincing evidence that shows commercial success and extensive use of my invention by major car makers. For instance, Nissan's own publication titled "Sales Talk" dated April 1995 and intended for Nissan's sales professional staff states on page 10 that "a security system is available for almost every model in the Nissan line up" and to further highlight what type of security systems are offered by Nissan on page 12 is clearly shown that the Nissan systems have programmable remote controls (please see the highlighted paragraphs in **Exhibit 2**). In addition, **Exhibit 3** includes copies of relevant pages from Nissan's manual which conclusively demonstrates that Nissan is extensively using my invention on security systems sold with most of their car models. But this usage is by no means limited to Nissan. **Exhibit 4** shows copies of many manuals from virtually all car makers to further buttresses my declaration and make my claims of commercial success unimpeachable. What's more the extremely broad use of my invention isn't limited to car makers. In ever increasing usage year after year since 1989 scores of aftermarket auto security companies have escalated the use of my invention in their products as copies of advertisements included in **Exhibit 5** so amply show. Cumulatively the attached evidence clearly and convincingly demonstrates that there must be no doubt that my invention enjoys an extraordinary commercial success. In fact, while Clifford has undoubtedly lost substantial sales and profit as a result of the sales made by OEM and aftermarket companies of remote control security systems incorporating my invention, the market for these products is expanding even faster and, therefore, Clifford has enjoyed year to year sales increase of security systems embodying the invention.

7. Throughout my declaration when I have referred to my "invention" I am referring at least to claims 107 and 109 of my application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: JUNE 10 1996


Ze'ev Drori